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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/777,465 | 02/11/2004 | Eric Linn | 022038-000300US | 2236 |
| 20350 | 7590 | 10/18/2005 | | |
| TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834 | | | EXAMINER PAYER, HWEI SIU CHOU | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3724 | |

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/777,465

Applicant(s)

LINN ET AL.

Examiner

Hwei-Siu C. Payer

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Detailed Action

Drawings Objection

1. The drawings filed on 3-29-2005 should be labeled as --Replacement Sheet--.
2. The drawings filed on 3-29-2005 are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the means for retracting a blade, the means for positioning a locking mechanism and the means for temporarily locking the locking mechanism as cited in claim 23 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Objection to the Specification

The disclosure is objected to because of the following informalities: Paragraph [0001] of the specification should be amended to include the U.S. Patent Application number.

Appropriate correction is required.

Claims Objection

Claims 11-21 and 23 are objected to because of the following informalities:

- (1) In claims 11, 18 and 19, line 2, "the blade" should read --a blade--.
- (2) In claim 11, line 2, "the folded position" should read --a folded position--.
- (3) In claim 11, line 3, "a blade" should read --the blade--.
- (4) In claim 17, line 1, "the locking portion" should read --the locking mechanism--.
- (5) In claims 18 and 19, line 3, "the folded position" should read --a folded position--.
- (6) In claims 18 and 19, line 5, "a blade" should read --the blade--.
- (7) In claims 18 and 19, line 7, "the closed position" should read --a closed position--.

(8) In claim 18, line 7, "protrusion to" should read --protrusion--.

(9) In claim 19, line 8, "a closed position" should read --the closed position--.

(10) In claim 21, line 2, "the locking position" should read --a locking position--.

(11) In claim 23, line 2, "the blade (first occurrence) should read --a blade--.

(12) In claim 23, lines 2-3, "the closed position" should read --a close position--.

Appropriate correction is required.

Claims Rejection - 35 U.S.C. 112, first paragraph

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 9, 10 and 23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

(1) In claim 9, it is not clear how the locking mechanism is configured to be re-positioned in a locked position when the blade is in a fully open position.

(2) In claim 10, it is not clear how the blade is configured to displace the locking mechanism from the locked position when the blade is returned from the fully open position to the closed position.

(3) In claim 2,3, the means for retracting the means for retracting a blade into a housing, the means for positioning a locking mechanism, and the means for temporarily locking the locking mechanism have no support from the original specification.

Claims Rejection - 35 U.S.C. 112, second paragraph

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-7, 14 and 18-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(1) In claim 2, line 2, "the housing" has no antecedent basis.

(2) In claim 14, line 2, "the handle" lacks antecedent basis.

(3) In claims 18 and 19, lines 5 and 6, "the housing" has no clear antecedent basis.

Claims Rejection - 35 U.S.C. 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Cunningham (U.S. Patent No. 4,811,486).

Cunningham discloses a folding knife comprising a handle (3,4), a blade (2), a locking mechanism (13), a male portion (14), a recess (5), a tab (i.e. the portion that is visible through notches 3a,4a when the knife is assembled as shown in Figs.1 and 2), a blade female portion (2a), a protrusion (19) extending from the handle, and a protrusion of a blade (i.e. the portion of the blade that is protruded out of the handle as shown in Fig.4) configured to displace the locking mechanism (13) as claimed.

3. Claims 1-4, 9-12 and 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Frazer (U.S. Patent Publication No. 2003/0070299).

Frazer discloses a folding knife comprising a handle (14), a blade (12), a locking mechanism (52) having a male portion for engaging with a female portion (66), a pivot pin (54) and a protrusion (32) as claimed.

Prior Art Citations

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pardue, Moser '615 and '272, Feng, Kain et al., Glessner, Sakai and Freeman are cited as art of interest.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-3800 for official communications and 571-273-4511 for proposed amendments.

H Payer
October 14, 2005

Hwei-Siu Payer

Hwei-Siu Payer
Primary Examiner